



CITY OF MANCHESTER

PLANNING AND COMMUNITY DEVELOPMENT

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MANCHESTER ZONING BOARD OF ADJUSTMENT PUBLIC HEARING / BUSINESS MEETING MINUTES

Thursday, January 9, 2020 – 6:00 p.m.
City Hall, Third Floor – Aldermanic Chambers

Board Members Present: Chairman Robert Breault, Vice Chairman Jose Lovell, Michael Simoneau, Alderman Jim Roy

Alternates Present: Alderman Keith Hirschmann

Excused: Anne Ketterer, Joe Prieto, Guy Guerra

City Staff Present: Leon LaFreniere, Director of Planning and Community Development

I. The Chairman calls the meeting to order and introduces the Zoning Board Members and City Staff.

II. **PUBLIC HEARING:**

(Current Items)

Chairman Breault announced that Alderman Keith Hirschmann would be a voting member this evening.

1. **ZBA2019-169**
4 Rapids Lane, R-1A Zoning District, Ward 6

Matthew Peterson proposes to maintain a recently placed foundation for a new single family dwelling with front stairs having a front yard setback of 21.5' where 25' is required and seeks a variance from section **6.03(A)** Front Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 4, 2019.

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Matthew Peterson of Keach Nordstrom Associates said he was here to present the variance at 4 Rapids Lane on behalf of K&M Developers, LLC. He said K&M stands for Kathleen and Manny. He said this was originally permitted by Keith Martel and was sold to Manny Sousa. Development. He said with him this evening was Manny Sousa, Jr. who is in charge of the site over there and building the homes out there.

Mr. Peterson said this application is for a residential lot within the approved Twin Brook subdivision off Cohas Ave in Manchester and is zoned R-1A. What happened with this application and the next application, which is at 5 Rapids Lane, is that the developer's site super believed he could lay out the foundations and save his boss some money by laying out the foundation. As you can see, they are here tonight as that didn't quite work out the way he wanted.

Mr. Peterson said the foundations are good and they are in the setbacks and are not an issue. He said these lots are about 15,000 SF and 21,000 SF. He said most of these guys do a lot of their work in Hudson and Hudson doesn't have section 6.03(A) that only allows the 2' encroachment for the front steps. He said this district is one of the larger districts and the 25 foot setback here is the one of the largest setbacks. He said this location is pretty far back from the road with this. At 4 Rapids Lane they need to encroach 3.5 feet where 2 feet is allowed. They need this to meet the egress requirements for the front door or side door. They looked at doing a couple of options out there because they do have 25 feet and thought this was the best option.

Mr. Peterson read through the five criteria as listed in his application.

He said the Board can obviously see that they have made a mistake here and they are at the mercy of the Board on this.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Alderman Roy said he knows that there are several other houses out there that have already been built and asked the applicant if they had any issues with those. Mr. Sousa said they haven't. Alderman Roy said there are several other lots that they still have to develop and asked what they have put in place so that this doesn't happen again. Mr. Peterson said he and Mr. Sousa will be laying out all these houses.

Vice Chairman Lovell said regarding criteria number five, he thinks that the wetlands in this area cause the property to be unique.

Michael Simoueau said one of the other hardships in part could be the fact that this is a corner lot. With the wetlands in the back it just makes it a little bit more difficult to place

that building. He said he did go to the neighborhood and it is a nice neighborhood. He said the fact that going forward it is not going to happen again and we aren't talking anything major as far as distance. He said he doesn't have a problem with this application.

Chairman Breault he agreed with Mr. Simoneau and Vice Chairman Lovell with the constraints of the lot and the fact that it is only the width of the stair landings and he doesn't have an issue with this application.

Michael Simoneau made a motion to grant the following variance count for case ZBA2019-169, 6.03(A) Front Yard Setback which was seconded by Jose Lovell.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann
Nays: None

Upon a unanimous vote, the variance was granted.

2. **ZBA2019-170**
5 Rapids Lane, R-1A Zoning District, Ward 6

Matthew Peterson proposes to maintain a newly constructed single family dwelling with front stairs having a front yard setback of 21' where 25' is required and seeks a variance from section **6.03(A)** Front Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 4, 2019.

Chairman Breault addressed Mr. Peterson and said this case was consistent with the previous case and asked Mr. Peterson if he had anything to add. Mr. Peterson said he did not.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Jim Roy made a motion to grant the following variance count for case ZBA2019-170, 6.03(A) Front Yard Setback which was seconded by Jose Lovell.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann
Nays: None

Upon a unanimous vote, the variance was granted.

3. **ZBA2019-171**

10 Hazelton Court, R-1B Zoning District, Ward 8

Richard Petty proposes to maintain a 6' stockade fence in the front yard, maintain an 8' x 11' shed in the street yard that is 3' from the street lot line and 1' from the rear lot line, and maintain a front yard parking space within 3' of a building and property line and seeks a variance from sections **8.27(B) Fences and Walls**, **8.29(A)1 Accessory Structures and Uses**, **8.29(A)3 Accessory Structures and Uses** and **10.09(B) Parking Setbacks (2 Counts)** of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 9, 2019.

Richard Petty of 149 Shepherd Road said he also owns this property at 10 Hazelton Court. He said he purchased this property in 1993. He said this fence was there when he purchased the property and it is in a state of disrepair and needs to be replaced. He said they put a shed in 15 years ago and would like to keep the shed where it currently is. As far as the parking, it has been like that since 1993 when he purchased the house. He did put an addition on in 1993 and when they put the addition on they were told by the City that the parking had to be enlarged. He said he actually had a copy of the original building permit that states that the parking had to be enlarged.

Chairman Breault turned the hearing over to the Board.

Vice Chairman Lovell asked the applicant if he pulled a permit when he enlarged the parking. Mr. Petty said he doesn't remember if he did. He said he had the original permit from 1993 and it says on it that it needed to conform to the City Ordinance but could not see a permit for the parking. He said when he purchased the property the fence and parking were where it is now.

There were no further questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Alderman Roy asked Mr. Petty if he was going to replace the whole fence. Mr. Petty said yes, he is going to put a whole new fence in. Alderman Roy asked if it was going to be similar to all of the fences along Hazelton Court. Mr. Petty said it will be similar. Alderman Roy said many of those houses in that neighborhood have sheds that are very close to the line and have cars parked even closer to their houses than Mr. Petty will have. He thinks he is doing the right thing and he doesn't have any issues with this application.

Jim Roy made a motion to grant the following variance counts for case ZBA2019-171, 8.27(B) Fences and Walls, 8.29(A)1 Accessory Structures and Uses, 8.29(A)3 Accessory Structures and Uses and 10.09(B) Parking Setbacks (2 Counts) which was seconded by Keith Hirschmann.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

4. **ZBA2019-173**
720 Union Street, R-3 Zoning District, Ward 3

Amy Chhom (Agent) proposes to occupy 3,877 SF for the sale of general goods and merchandise and seeks a variance from section **5.10(F)5** Sale of General Goods and Merchandise of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 13, 2019.

Amy Chhom said she was representing Orbit Group and the landlord 720 Union Street, LLC for the property at 720 Union Street. Tom Lessard of 217 Tory Road who is the owner of Bike Barn was also present. Bike Barn is the business that they are discussing this evening. Ms. Chhom said she wanted to give an overview of the property for those not familiar with it. She said it is kind of a hidden gem located in the R-3 zone.

Ms. Chhom said you may remember some of the adjoining tenants at the property, To Share Brewing, which has come before this Board a few times as well as a Laundromat which is encompassing the south side of the building. They have a small space that remains vacant which is about 3,899 SF plus or minus as it is in the center of the building. They have had a lot of interest in this space but they actually kind of held off on leasing it because they didn't feel that they had the right kind of use. She said they actually had Bike Barn over at their other sister property, 252 Willow Street and in conversations, Mr. Lessard had mentioned that this was a property that he had looked at previously before moving to 252 Willow Street. She said they were faced with due to environmental concerns in their abatement that is happening at their factory, they need to relocate him to a more suitable location. It was not an easy conversation to have to have him relocate after recently relocating from 33 South Commercial Street, but they see that that is a very favorable opportunity, both for the neighborhood for this particular property and for his business.

She said 720 Union is a funky looking building that used to be a garage space and today it is one of the most interesting exterior facades in the City. She referred to the overhead plan and referred to the portion of the building that they were talking about and said this kind of area right here with this window and this window. She said the interior is wide open with cement floors and high ceilings. She said Bike Barn, being a primarily retail user really makes sense for them to be at this property. She said the unfortunate part is that although she could move a convenience store into this space with a conditional use permit, she cannot move any general retail store into this space, which is a less invasive, less cumbersome, less traffic generating use compared to having a neighborhood convenience store.

Mr. Lessard said his father started this business on Maple Street in 1976 and they were there for about thirty years and then they moved to South Commercial Street for fifteen years and then they moved from Commercial Street to Willow Street for the last year and a

half. He said they are a family owned bike shop. They are open 10:00 am to 6:00 pm in the summers and they reduce their hours in the winter from 10:00 am to 4:00 pm and they are closed on Sunday and Monday. They are not a high traffic type of business so they will fit in well here. They have maybe one to two customers per hour. In the winter sometimes only one customer a day. It is primarily six months out of the year when the majority of their business is.

Ms. Chhom said their hours of operation in which Bike Barn has are staggered so they are primarily a daytime type of business and To Share Brewery is primarily a late afternoon to early evening type business. In actuality there is a short window of overlap on certain days, primarily on the weekend. For the most part, Bike Barn is open, Bike Barn closes and To Share opens. She said for the most part they hope the parking impact will be minimal. The other key point to mention is where Mr. Lessard says he has only one to two customers a day on the high point, he only has three to four employees on site at any point in time so they are talking about six vehicles and many people actually show up on bikes. Mr. Lessard said he lives two blocks away and he plans on walking or riding every day too.

Ms. Chhom said although if they were to sit there and calculate the parking requirement, they would have a high density parking impact if they were a convenience store. She referred to the overhead plan and said in actuality, if you take all of the square footage, for the most part, outside of Mr. Lessard's display area and the work space and the office, he has about 780 SF that customers could occupy. It is a little bit different than your standard business because his inventory is such a large amount of the square footage. Ms. Chhom said they still need to go before the Planning Board and they are hopeful that both the sign permit and parking and they are hopeful that this gets approved quickly because as part of their abatement process at 252 Willow Street, they really need to fit up the space and get him into the space as quickly as possible in order not to have a delay or a life safety hazard with the lead abatement that is occurring at the property.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of this application to come forward.

Alderman Will Stewart said he is the Alderman for ward 2 which basically abuts ward three with Union Street being the dividing line. He said he thinks this is a great use for the neighborhood. He lives about three blocks from here and he is a customer of Bike Barn. He said he thinks this is consistent with the direction of the neighborhood and he agrees that there will be a lot less traffic than with other uses. He is in full support of this application.

Chairman Breault then invited those in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Vice Chairman Lovell said he thinks this would be a benefit to the neighborhood and is going in the right direction. He said it is not going to be contrary and the spirit of the Ordinance is

observed. This is a less intense use than something that is going to be allowed there. There has been a vacancy there for a while which will be finally filled which is good use in his opinion.

Michael Simoneau said he agrees that this is a good fit for this building and he is in support of it. His only concern is that when To Share Brewery was here last, they were looking for extended hours. He said he is worried about traffic if this goes through and To Share Brewery comes back before the Board looking for those extended hours, there generates the traffic issue.

Chairman Breault said he is familiar with Bike Barn and the neighborhood and their former location and he supports this application as well. Vice Chairman Lovell said he agreed with Mr. Simoneau about the traffic but an allowed use would be even worse.

Jose Lovell made a motion to grant the following variance count for case ZBA2019-173, 5.10(F)5 Sale of General Goods and Merchandise which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann
Nays: None

Upon a unanimous vote, the variance was granted.

5. **ZBA2019-174**
819 Second Street, B-2 Zoning District, Ward 10

Neona Karageorgos proposes to establish a tattoo parlor in a space 1,250 SF in size that is located within 500 feet from the exterior wall of a residential structure in a residential zoning district and seeks a variance from section **8.06(A)2** Tattoo Parlors of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 13, 2019.

Neona Karageorgos said she resides at 301 Hackett Hill Road in Hooksett, New Hampshire and she is looking to establish a tattoo parlor at 819 Second Street. It is just herself right now but she would eventually like to hire another artist to work alongside her. She said it is a combination of the tattoo parlor in the back of the unit and then she would like to have an art gallery in the front mostly showcasing her oil paintings and prints. She said this is a thriving business zone already and there are a lot of larger businesses in the area already and there is parking for her clients. She is primarily by appointment only and her hours are from 11:00 am to 5:00 pm, so earlier in the day and not late in the evening.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of this application to come forward.

Tom Levasseur of 49 Hubbard Street said he grew up in that neighborhood across the street from this location and he is in favor of this tattoo parlor. He said he also runs the Budget Truck company right behind the tattoo parlor and it is nice to see businesses filling all the spots and the taxes being paid. He said he supports it completely.

Chairman Breault invited those in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Bob Breault said he took a look at this property and the residential is across the street behind the other commercial properties. He said Second Street is loaded with commercial properties up and down all sides of the street and he doesn't see an issue with this. He said the residential is somewhat removed although it is part of the Ordinance, he doesn't think it impacts any of the residential.

Alderman Roy said he agreed with the Chairman and said if we are going to have a tattoo parlor, he thinks this is the type of area we should have it because it is all commercial and industrial.

Alderman Hirschmann said he is not opposed to this application and said if it was a school or something similar, he would be concerned about the 500' buffer. He thinks this fits on Second Street.

Jim Roy made a motion to grant the following variance count for case ZBA2019-174, 8.06(A)2 Tattoo Parlors which was seconded by Keith Hirschmann.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

6. **ZBA2019-136**

1140 South Mammoth Road, R-S Zoning District, Ward 8

Jeffrey Lewis, (Agent) proposes to construct six buildings consisting of 36 single family attached townhouse dwellings in the R-S zone, with lot coverage of 26.4% where 15% is allowed, with a floor area ratio of 0.19 where 0.1 is allowed and with one building having a front yard setback of 29' where 50' is required and seeks a variance from sections **5.10(A)2** Single Family Attached Dwellings, **6.04** Lot Coverage, **6.06** Floor Area Ratio and **6.03(A)** Front Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 17, 2019.

Jeff Lewis of Northpoint Engineering appeared along with Will Socha who is the applicant here and John Deachman who is the land use attorney helping out with the development of the project. Mr. Lewis said Mr. Socha had a copy of a letter of support to distribute to the Board. Mr. Lewis said for those not familiar with this project, the Timbers development on

South Mammoth Road is a 162 unit, attached townhouse development that is under construction right now. Mr. Socha is the developer of this project and it started construction last spring. He said it took a couple of years to get through the approval process. The project started with rezoning from RS to RSM and they did not need to come before the Zoning Board for any relief as part of the project. They did go before the Planning Board and they got that approval last March or April and Mr. Socha started construction shortly thereafter.

Since that time, Mr. Socha has acquired some additional land adjacent to this development and is looking to come back to the Planning Board with an amended site plan to expand the development. That is why they are before this Board. They are here because the expansion is in property that didn't get rezoned and to the RSM and is in the R-S zoning district.

Mr. Lewis referred to the plan and said the black and white area is the proposed layout of the Timber Development that is under construction right now and explained that the colored part of that is the proposed expansion with six additional buildings and 36 additional units on two additional lots in the RS zoning district.

Mr. Lewis said he would describe the second page of the plans. He said that kind of zooms into the area that is the subject of their variance request. He said the focus of the variance request is where the R-S zone is. If this was zoned RSM they wouldn't need any of these variances. Mr. Lewis said the other three variances are all dimensional variances and one of them is pertaining to lot coverage. They have a little bit more coverage than what is allowed in the RS zone but they are way under what is required in the RSM zone. He said it is the same thing for floor area ratio and front setback.

Mr. Lewis referred to the overhead plan showing the tax map and said this is the current GIS map and this is the Timber's parcel which is a 25 acre parcel which was approved and rezoned. He indicated the main driveway on the plan for the Timbers Development and said it is being constructed in two phases. There is the north end which has a driveway loop with some buildings ranging from four to eight unit, single family attached townhouses. There is a second driveway loop in the back that will be constructed as phase 2. Where that stands right now is that Mr. Socha got most of the infrastructure in for phase 1 this year and he has been working on the buildings. There are a number of buildings that are up and occupied and several more that are ready to be and for the most part, this will be close to being built soon, this year. It is a rapidly moving project. Mr. Lewis referred to the newly purchased lots and indicated them on the overhead plan. Mr. Socha does not own two of the parcels which are a single family house and a commercial lot.

Mr. Lewis indicated the proposed development and explained it on the overhead. He said Mr. Socha is proposing to extend the development with a driveway coming off the existing road and they are proposing a secondary driveway entrance on South Mammoth Road. They are also planning on making use of the Industrial zoned land here for a maintenance garage.

Referring to the overhead, Mr. Lewis referred to a few wetlands that they are proposing to fill to build this and they have met with the DES Wetlands Bureau and are in the process of

preparing that. He said that obviously depends on obtaining a variance and getting zoning approvals first and said they would be moving forward with design and going to the Planning Board later this winter or spring. He said they have a use variance and a lot coverage variance. In the RS zone, they are allowed less than half what they are allowed in the RSM zone. He said one of the proposed buildings has a 29 foot setback and a 20 foot front yard setback which is 50' in the RS zone.

Mr. Lewis said they feel that the rezoning of the parcels to the east that afforded the opportunity for this development has also created a hardship on these remaining parcels in the RS zone. Mr. Socha said he would like to point out that the single family house lot that remains, that is the support letter that he distributed to the Board.

Chairman Breault read the letter into record.

To Whom It May concern:

"As direct abutters located at 1180 South Mammoth road, Manchester, NH, we have met with William Socha regarding the land directly behind and around our lot. We have reviewed the plans voiced our concerns and opinions and feel confident the plans going forward will be in the best interest of all parties.

We should be informed, going forward, of any and all changes and plans.

Should you have any questions or comments, please call or email."

Thank you for your time,

Thomas Coyle
Sarah Coyle

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of this application to come forward. No one came forward to this request. He then invited those in opposition to this application to come forward.

Mike Nackel of 375 Lucas Road said he is probably the main abutter to the Timbers Development and lives on Lucas Road which the Timbers is nestled inside of. He asked if the Board was familiar with Lucas Road. He said his property is seven acres with a single family house on it which is typical of the area. He said there are no properties under one acre there and it went from a dozen to about 200 families recently and this is another step to enlarge that and force more families into a smaller area. He said it is against the interest of anybody on Lucas Road to put more in this area. He thinks this should be made to fit in the requirements of this zone.

Yiannis Voyiatzakis of 411 Lucas Road said the Board decided that they can put all those

apartments there and now they are asking for 36 townhouses. He said the City is making more money in taxes and that is why they are approving this. He said the development killed a lot of wildlife. He said the Board only cares about money and taxes. He is in opposition to this application.

Elizabeth Voyiatzakis of 411 Lucas Road said she is worried about the traffic as they are adding 76 to 100 more cars coming out of there eventually. She said there is turn put on to South Mammoth Road to get in and out of that place. She said she thinks there is going to be trouble if this goes through and they don't add access to South Mammoth Road. She said this will have a great impact on the schools. She said they are talking about filling in there and asked if anyone checked if there were protected species in that area. She said she knows there are protected species on her property and they abutt the back end of the Timbers. She said they have had an increase in traffic on 4-wheelers and she doesn't know where they are coming from. She said they have people trespassing from somewhere and this worries her.

There were no further questions or comments from the public and Chairman Breault invited Mr. Lewis to respond to the comments made.

Mr. Lewis referred to the plan and indicated where this proposal is compared to where Lucas Road is. He said this proposed site is completely on the opposite side of Lucas Road. He said there was a traffic study done which didn't warrant any turning lanes and they have a traffic engineer standing by to do an amended traffic study because they are adding another driveway entrance onto South Mammoth Road. They will have to go through that whole process and determine if there are any warrants for turning lanes or any other offset improvements needed. If there are, that will be taken care of during the Planning Board process for sure.

Mr. Lewis said it is hard for them to comment on people trespassing on other people's land. He said there is no reason to think it has anything to do with this. He said this is the third or fourth large project that Mr. Socha has done of this exact same type and he has close to 200 units on Hackett Hill Road in two separate developments and said there are very few children in these developments. He just mentioned that they have 20 units occupied here and there is a total of two school age children in those 20 units, so it is a low impact to the schools. He said there is a great need for these units and Mr. Socha can't build them fast enough for people to move in. Attorney Deachman said there is no secret about the housing shortage in the State of New Hampshire and obviously, part of the variance goes to public interest and this is addressing a portion of that need and what appears to be a very reasonable way.

Chairman turned the hearing back over to the Board.

Alderman Roy said he was glad Mr. Lewis addressed the traffic issue because although that is addressed at the Planning Board, it is nice that everybody hears that. He asked if Mr. Lewis if with that one house left in the front and as close as they are coming to Mammoth Road,

are they going to do some type of screening there? Mr. Lewis said Mr. Socha spoke with them and they showed it on the first plan and they will work with that as part of the Planning Board process to apply the appropriate buffer to their lot. He said they were obviously concerned about drainage, which everyone is when they are downhill, so that will all be stuff that they work out with them. They felt comfortable enough working with them to this point to provide that letter to the Board.

Mr. Socha said there were quite a few trees on their property too and he said he would leave a lot along the property line and he told them if they have to plant more, they will plant more. He said they were happy with that and their biggest concern is water. He said when he bought the parcel, the little pieces of wetlands were in there from someone going around with a little machine and digging holes. What they are doing should help their water situation.

Alderman Hirschman said he thinks in this particular case, he thinks it is a benefit that the lots are merged and are contiguous. He said the letter from Mr. Coyle who is the one real true abutter is very important and he thinks that holds a lot of weight that he talked to the neighbors and although there are four counts, they are minimal counts. He said the design of Glacier Way has an island with a defined in and out and he asked if this other one warrant that. Mr. Lewis said there are less units and on that side they really wouldn't expect it. This is really going to be a secondary entrance. He said he doesn't expect anybody coming into the main development to come in this way. It is just not convenient for them to do that. He said he really thinks limiting this to a 26 foot wide drive is probably what they will end up with. Alderman Hirschmann said he did take a drive down to the Timbers Development and he said it is a very quality development. He thinks this would certainly be a good addition with 36 units. He said he noticed that across the street is all industrial and hotel and he doesn't think it is adverse at all.

Vice Chairman Lovell said this is kind of in the corner of the City and is basically, the one property they already mentioned before, 1180 South Mammoth Road, he is really glad to see that the Board got a letter from them. Other than that, they have industrial across the street and they are expanding further away from the abutters who testified opposing this application. He said living next to a power line easement like that there are going to be four wheelers and stuff like that and it is not likely to be coming from a development like this one.

Chairman Breault said he took a ride through and said he agrees it is a quality development. He said when the City fathers decided to rezone that and make the RSM zone, they just left this little parcel off and it is now RS so he thinks it is just consistent with the abutting parcel. He doesn't see any issues with this application.

Jose Lovell made a motion to grant the following variance counts for case ZBA2019-136, 5.10(A)2 Single Family Attached Dwellings, 6.04 Lot Coverage, 6.06 Floor Area Ratio and 6.03(A) Front Yard Setback which was seconded by Keith Hirschmann.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann
Nays: None
Upon a unanimous vote, the variance was granted.

7. **ZBA2019-175**
198 Bruce Road, R-1B Zoning District, Ward 2

Tom Huot (Agent), proposes to maintain retaining walls in each of the side yards greater than 4' in height and less than 10' from the side lot line, and maintain a front yard parking space 0.9' from the front lot line where 4' is required and where the front yard parking space is located within a second driveway that 5' from another driveway on the same lot where 30' is required and seeks a variance from sections **8.27(D) Fences Walls**, **10.08(B) Driveways Location** and **10.09(B) Parking Setbacks** of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 18, 2019.

Tom Huot of S and H Land Services said he was here with the home owner, Paula Shapazian. He said this is a very straightforward application. He said Ms. Shapazian is proposing to remove her existing deck as shown on her plan and replace it with a 10' x 16' deck all which complies with all current zoning regulations. She does have two portions of about five and six feet of her retaining wall that are about half a foot to a foot and a half above the 4 foot required height when they are within 10 feet of the property line. She also has a parking space that is non-conforming and that is why they are here seeking relief. Her family has owned the home since the 1960's and the retaining walls are part of the landscape of the property and certainly don't pose any danger or threat. The parking spaces have existed since the 1970's.

Chairman Breault turned the hearing over to the Board.

Chairman Breault asked Mr. Huot if those retaining walls were original to that structure. Ms. Shapazian said they were. She said the house was built in 1954 and they were part of that construction.

Alderman Roy said to make it clear, the reason Ms. Shapazian was here was that she went in to the Building Department to do everything right and pull a permit for here new deck and these other things that were in existence like this for decades were discovered.

There were no further questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Jim Roy made a motion to grant the following variance counts for case ZBA2019-175, 8.27(D) Fences Walls, 10.08(B) Driveways Location and 10.09(B) Parking Setbacks which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann
Nays: None
Upon a unanimous vote, the variance was granted.

8. **ZBA2019-176**
434 Union Street, R-3 Zoning District, Ward 3

Matthew Peterson (Agent) proposes to convert a boarding house with 17 rooms to a multi-family dwelling with 11 dwelling units on a 6,678 SF lot where 17,000 SF of buildable land area is required and replace an existing three story open stairway with a 200 SF three story enclosed stairway, as well as construct a one story 75 SF addition for a lift to the first floor resulting in a floor area ratio of 0.86 where .75 is allowed and seeks a variance from sections **8.04** Minimum Buildable Lot Area and **6.06** Floor Area Ratio of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 19, 2019.

Matthew Peterson of Keach Nordstrom Associates said he was here to present the proposed variance at 434 Union Street for Families in Transition. He said appearing along with him was Chris Wellington of Families in Transition. He said the application at 434 Union Street is to allow the owner to construct 11 apartments within the existing building where only 4 are allowed. He said as this Board may remember, back in November of 2018 those other variances that they are asking for tonight were granted and are still good until November of 2020 but he thinks staff is asking them to wrap them all together on this application to give these guys a little bit of time if they don't get things done this year that they would have an extra year for the other variances.

Mr. Peterson said what has happened since the 2018 variance when they basically asked for the 17 boarding house units, is that the owner came across financing issues with developing this building into the boarding house because of issues with things like shared bathrooms with guys and girls, common space area and things they didn't foresee happening when they first came before the Board back then. What they would like to do now is to create 11 apartments that would be seven studio units and four one-bedroom units. Again, he said this is still to support the homeless population. He is still hoping that this will be the next step and the people from New Horizons would come to this unit here. It is not Families in Transition that are now becoming developers like the previous applications. This is still trying to support the people in town that really need this type of use. He said this really just came down to financing and meeting the obligations of what was in the financing package. He said the building is vacant right now and it would really be nice to have it up and running in the winter time.

Mr. Peterson went through the five criteria as listed in the application which was submitted to the Board in their packets.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He

invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Alderman Roy asked if this was previously Angie's Place. Mr. Peterson said that was correct. Alderman Roy said it has been associated with New Horizons at the time for fifteen years or more. Mr. Peterson said that was correct. He said this is really nothing new for this area and this use is kind of like it was before, only in a different fashion. The way he is looking at it, it looks like they are actually going to address the affordable housing issue here in the City. Mr. Peterson said that is what they are trying to do. Alderman Roy said he thinks it is a good fit for the neighborhood. He said having been a person that went to St. Anne's Church for years and years until it closed, he remembers seeing how it was used in the past and he thinks it was a good use in that neighborhood and he thinks this is going to be a good use again.

Alderman Hirschmann said he noticed the plan references a basement and asked if all the units are on the first floor and up. Mr. Wellington said the basement is unoccupied and would just be basically maintenance storage.

Chairman Breault said as far as the previous application, nothing is really changing. He asked if they are still going to maintain the parking spaces that they had detailed then, and enclose the porch similar to the same detail that they requested prior and the lift is staying the same. Mr. Peterson said everything exterior will be staying the same.

Chairman Breault said he thinks this use is needed in the City. Once again, it is going to help satisfy some of the residential shortages in the City for people in need.

Jim Roy made a motion to grant the following variance counts for case ZBA2019-176, 8.04 Minimum Buildable Lot Area and 6.06 Floor Area Ratio which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

9. **ZBA2019-172**
487 Oak Street, R-1B Zoning District, Ward 1

Francois Boucher proposes to maintain a rear deck with a rear yard setback of 12' where 30' is required and seeks a variance from section **6.03(B)** Rear Yard Setback of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 24, 2019.

Francois Boucher of 487 Oak Street said he was looking for a variance to keep the existing

deck as it was when he purchased the house in August of 2019. He went to pull a permit at the Building Department to build a shed and this was discovered. He said he put up the site plan describing the area and he is looking to maintain this deck. He said he has no opposition from his neighbors and he distributed a letter in favor from an abutter which Chairman Breault read into record.

"Hi Francois,

I have reviewed the proposed shed and repairing of your deck in the backyard. I have no objection with your request for a variance."

*Norm Godin
350 Tory Road
Manchester*

Mr. Godin also wrote: "I also spoke with Ray Blethen and Kevin Cavanaugh who also expressed that they have no objection with your request."

*Ray Blethen
334 Tory Road
Manchester, NH 03104*

*Kevin Cavanaugh
368 Tory Road
Manchester, NH 03104*

Mr. Francois said he also corrected the additional permits that hadn't been pulled on the property just for the record. He has a permit pulled for the front deck that was never pulled and also for the parking that was added to the house and those were approved. The rear deck, because of the variance of the need for a 30 foot space was not able to be approved because of the need for the spacing.

Chairman Breault asked if everything existed when he purchased the property. Mr. Boucher said it was. Chairman Breault said Mr. Boucher was looking to add a proposed shed with the proper setbacks. Mr. Boucher said that was correct.

Alderman Roy asked Mr. Boucher if he knew when the parking was extended and when the deck was built. Mr. Boucher said he had no idea but his estimation would be at least in the early 2000's.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Keith Hirschmann made a motion to grant the following variance count for case ZBA2019-172, 6.03(B) Rear Yard Setback which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann
Nays: None
Upon a unanimous vote, the variance was granted.

10. **ZBA2019-178**
Tax Map 435, Lot 1B at Dunbar Street and Sundial Avenue, RDV Zoning District, Ward 9

John Cronin, Esq. (Agent) proposes to construct a multi-family building with 160 dwelling units on a lot having buildable land area of 163,221 SF where buildable land area of 240,500 SF is required, with six stories where four stories are allowed, and with a building height of 67' where 50' is allowed and seeks a variance from sections **8.04** Multi-Family Dwellings, **6.05** Height in Stories and **6.05** Height in Feet of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through December 31, 2019.

Attorney John Cronin of Cronin, Bisson and Zalinsky appeared along with Joe Wichert who has been doing some of the work with respect to the plans and the layout on this particular project. Attorney Cronin said the property in question here is currently owned by Velcro and has been for some time. He said it is an underutilized vacant lot that sits at the end of the trail there, the walking path that goes along down the river as you set down towards Dunbar Street. It is in the RDV zone which is designed to be a transitional zone to buffer commercial and industrial uses from residential. He said when you look at the parcel to the north, you have the rear of the Sundial center that was the former Hesser College wing which has been converted to apartments. He said you also have the Velcro plant there that sits to the east and NYCOA [Nylon Corporation of America] sits right along the river there. It is commercial and industrial as you head down on Sundial, you make the turn and there is this large parcel here.

Attorney Cronin said it is a unique parcel and is rare in the sense that the public street divides the land. There is a section of that property as you will see on the map that is included that slopes down towards the river. He said that land area is not included in the lot area calculation for the purposes of determining density. NYCOA has been supportive of the particular use and Velcro has been looking to make the land productive. They don't have an immediate use for it. They would like to sell the land and have the capital invested in their operations. They approached the applicant in this particular case to see if they would be willing to acquire the land and they put it under contract subject to approvals.

Attorney Cronin said the proposal before the Board is to do a replica mill. It is a mill style building that will be 160 units. The unit mix is detailed in the application and it will travel along that particular roadway. He said it is a podium type construction and there are a hundred spaces that will be partially underground based on the grades and there will be five stories of living area. Attorney Cronin said Alderman Shaw, Alderman O'Neill, Mr. LaFreniere and Mr. Sheppard were kind enough host them at a Department head meeting over at the Public Works Department approximately six weeks ago. They got everyone together just to get a sense of what the concerns were and to share some of the elevations with them and what the plans were. Of course, this is the type of project that if they get the variances, they

will require intense review by the Planning Board. If they are successful here, there will be a lot of engineering and design work. Basically, the goal here is to get the variance to allow three pieces of relief from the Ordinance. One is density based on the unit counts, seeking 160 units where if you looked at it in a technical sense, it might be 108 to 110 allowed by right. As the wetlands have been estimated by Mr. Wichert again, they would have to be officially mapped for the Planning Board purposes.

Attorney Cronin said the other relief they are requesting relates to the height and the number of stories. It is interesting to note in the RDV zone, if they said this was exclusively an elderly building, they could have up to ten stories of 100 feet. He said he doesn't know what impact the age of the occupants has for the health, safety and welfare of the Ordinance, but someone that drafted the Ordinance thought there was a difference at that particular time.

Attorney Cronin said this building, as proposed, will have some detailed features that he thinks are regularly encouraged and welcomed by the Planning Board, including some sections of brick façade that will try to mimic and duplicate to the best of their ability, again, the mill style buildings. He said Mill West has been a big success as you know. He said it is really targeted at an upper level in the market. He said we know in the City we have a lot of lower level, entry level and subsidized housing. He said they have a lot of older housing which is certainly clean and nice and fit that there has been a goal to try and drive housing based on the statewide shortage. Last report a few weeks ago, he thinks they said across the State, 2% vacancy which is extremely rare. A healthy economy would be 7% to 8% approaching 10% vacancy. There is definitely a demand and this area is right for it as you know on Queen City Avenue, the Bluebird Storage which came before the Board several years ago to put that facility up which is a beautiful facility. He said River's Edge looks nice and that whole area has transitioned. He said he had the pleasure of representing SMC that did the work to convert those former dormitories to apartments and also some variances were granted to allow that new apartment building, which is a couple of years old, down on the left. He believes there are approximately 48 units that are there at that site.

Attorney Cronin said when you look at the criteria for the variance, one of them is whether or not the values of surrounding properties would be diminished. He said certainly, the industrial type buildings and commercial and other apartments would not be where this is going to be again, aimed at an upper market. He certainly believes it would improve the value and to solidify the record, they engaged the services of William Kanteres and Calley Milne of Kanteres Real Estate. They asked them to review the plans and the application and make a trip, not only out to the immediate area, but to go down further south down through the residential area and report their findings. He said he had a letter before him addressed to Mr. Breault, the Chairman. Attorney Cronin read the letter into record, which provided rationale for the conclusion of an increasing demand for luxury apartment living in the downtown zone and that abutting properties would not be devalued.

Attorney Cronin said he knows that letter was lengthy but it really touches on all of the variance criteria that are at play this evening. He said also of note from their public meeting

was the positivity that would result from the trail that is along the river. He said his understanding is that right now where that trail terminates, in an isolated area, it tends to be an attractive nuisance spot where there are gatherings and other activities that are not beneficial to the neighborhood. The hope here is with this development and a lot of activity, not only will the people from that building be able to make robust use of the walkway, providing a sense of safety, it will also provide again, that circulation and maybe distract some of the attractive nuisances that go on at the present time.

Attorney Cronin said he touched on the unique nature of the property and the special features. He said they believe that it meets the hardship criteria and all of the other factors for the variance.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of this application to come forward.

Alderman Barbara Shaw said she is the Alderman in Ward 9. She said the letter Attorney Cronin read into record really covered most of everything that she was going to say. She said she met with the representatives of the attorney and the Velcro Company and she feels this is a good fit for that area. There are apartments just to the north. She said the southern portion just below this area is single family homes but there is a buffer that is in between that area and this area and she doesn't think there will be any impact on them. She said there is still a lot more to go and a lot of traffic studies that need to be done. She said the general outlook for the whole area, the rail trail ends there and then it heads east and goes right up by the proposed apartments and continues on to the rail trail on the other side in the back of where she lives off of Randall Street and the Baker Street area. She said she thinks this will be a very good project and she is anxious to see how it goes through from here. She said she wanted to come here early and express her support for the project.

Ben Kaplan said he is the General Counsel of Velcro, USA. He said he is here to support the application for the variance. He said right now as Attorney Cronin mentioned, the lot is vacant and they think this is a very positive use of that space. He said it is a very nice spot and is situated looking over the river and he thinks it will be a positive addition to the entire area. He said they have seen that the apartment building that was put up just to the north was snapped up very quickly. He thinks all of those units are filled right now so he has no doubt that the units here would also fill up quickly. Again, as we heard in that letter, this is the kind of housing that Manchester could use.

Chairman Breault invited those in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Vice Chairman Lovell said he completely agrees that this development is going to be good for the area for economic development and everything. He said the parcel is unique, down by the river and in between the railroad and the river. He said it is in a tough little spot

there. He said he knows this isn't in this Board's purview, but he is just curious about when they go in front of the Planning Board for the traffic study or whatever is going to have to be done, what is the plan for a lot of the cars could be exiting out of Sundial to Queen City Avenue where that stop light is there. He said there is already a backup along Queen City Avenue when Velcro gets out of work at 5:00 pm. He said it is once a day and is not huge but he is curious. Attorney Cronin said they will have to address the traffic and certainly that was something that they did with the SMC project. He said he thinks Vice Chairman hit it exactly on the head. He said there is a period of probably 4:30 pm to 5:15 pm that you might have to wait at a couple of cycles at that particular light. He said he thinks when you get to 6:00 pm or 7:00 pm, it runs pretty smoothly. He said looking at it, their traffic engineers are confident that it will work. They may have to do some changes to the light cycling and the sequencing to make sure that those cycles work at the appropriate times. They are confident that it will work and certainly the Planning Board will require them to submit the appropriate studies and prove that the traffic works for the appropriate counts. Vice Chairman Lovell asked Attorney Cronin if that would be the main entrance and exit way. Attorney Cronin said yes it will. He said he has traveled it a number of times and going down Dunbar Street is just too far down and is too remote. He said you might have a straggler or two that is heading south that might go down there but he cannot foresee much of any of the traffic generated from this facility going anyplace up to the light at Queen City Avenue and either breaking left to get to the highway which he thinks the traffic counts, going from memory in the other apartments, was the majority of peak hour movements were headed to the highway.

Alderman Hirschmann said he had a comment about the count 6.05 Height in Feet. He said the only reason he even thinks about that is because that is the main flight path of the Manchester Airport. He said they are going up in height and said the Board is giving them a variance for that and he didn't know if that was a low lying depressed area. Alderman Jim Roy said it is a great question and as a matter of fact, they just addressed this recently when Nylon Corporation came here. He said they wanted to put an extra story on their building. He said the topography there is that it drops down significantly. He said it used to be the old Foster Grant building. It drops down significantly so he doesn't think this is going to be any issue at all as far as height. Chairman Breault said he thinks overall, the topography and height, it would not exceed on top of the hill which is the Farnham Center.

Attorney Cronin said regardless, if the Board looks on this favorably, that is not going to have any impact on title. Occasionally they find a navigation easement for aviation that is in the record that restricts the height to something lower that might be in the Ordinance. They are still going to be bound by that if it exists. He doesn't think it is going to have any bearing good, bad or otherwise on any air traffic. Chairman Breault said he is sure that River's Edge is higher as well.

Chairman Breault said he thinks this is a good use of the site.

Michael Simoneau said he agrees with Attorney Cronin's comment earlier about the issue that the walk path has had. He said having been part of the chamber and the issues with a

lot of that area, he thinks this is just going to help that area. He said he is in favor of this and he thinks it is a nice plan. He thinks the units facing the river will rent quicker.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2019-178, 8.04 Multi-Family Dwellings, 6.05 Height in Stories and 6.05 Height in Feet which was seconded by Jim Roy.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

Leon LaFreniere announced that this was the end of the Public Hearing and the Board would move on the Business Meeting.

III. BUSINESS MEETING:

(Request for Rehearing)

11. **ZBA2019-156**
132-134 Orange Street, R-3 Zoning District, Ward 3

William Stergios requests a rehearing of case ZBA2019-156, appealing the decision of the Zoning Board of Adjustment granting request for relief from Section **6.04** Lot Coverage as per documents submitted through December 11, 2019.

Chairman Breault said this abutter is bringing to the Board's attention that the property in this variance that the Board granted may be encroaching onto his property. He said in cases in the past, where things are tight, the Board has requested that applicants come forward with some kind of a surveyed plan and they did not in this case. He said if the Board did err and we may have, they may want to consider accepting this rehearing and insisting that the applicant come forward with a certified plot plan showing that the parking that they are proposing to add is on their property and not the abutters.

Keith Hirschmann made a motion to grant request for rehearing of case ZBA2019-156, which was seconded by Jose Lovell.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann

Nays: None

Upon a unanimous vote, the request for rehearing was granted.

Leon LaFreniere said it is his assumption that the Board would see this case in their next monthly meeting.

Alderman Roy asked Mr. LaFreniere if all of the abutters would be notified again. Mr. LaFreniere said yes they would.

1. ADMINISTRATIVE MATTERS:

1. Review and approval of the ZBA Minutes of December 12, 2019.

Chairman Breault abstained from voting on the approval of the Minutes as he was not present at the December 12, 2019 Meeting.

Keith Hirschmann made a motion to approve the Zoning Board of Adjustment Minutes of December 12, 2019 which was seconded by Michael Simoneau.

Yeas: Lovell, Simoneau, Roy, Hirschmann

Nays: None

Upon a unanimous vote, the Zoning Board of Adjustment Minutes of December 12, 2019 was approved without amendment.

2. Any other business items from the ZBA staff or Board Members.

No new business was brought up.

Jim Roy made a motion to adjourn the Zoning Board of Adjustment Meeting of January 9, 2020 which was seconded by Keith Hirschmann.

Yeas: Breault, Lovell, Simoneau, Roy, Hirschmann

Nays: None

Upon a unanimous vote, the Zoning Board of Adjustment Meeting of January 9, 2020 was adjourned.

Full text of the agenda items is on file for review in the Planning & Community Development Department.
The order of the agenda is subject to change on the call of the Chairman.

Attest: _____



**Robert G. Breault Chairman
Manchester Zoning Board of Adjustment**

APPROVED BY THE ZONING BOARD OF ADJUSTMENT: February 13, 2020

☒ Without Amendment

☐ With Amendment